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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,531	12/28/2001	Louis Bigo	CU-2792 RJS	1673

26530 7590 03/17/2004

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EXAMINER

LOPEZ, FRANK D

ART UNIT PAPER NUMBER

3745

DATE MAILED: 03/17/2004

*7*

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/034,531

Applicant(s)

BIGO ET AL.

Examiner

F. Daniel Lopez

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3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 and 17 is/are allowed.
- 6) ☒ Claim(s) 1,3-5,12 and 13 is/are rejected.
- 7) ☒ Claim(s) 6-11,14 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

Applicant's arguments filed January 13, 2004, have been fully considered but they are not deemed to be persuasive.

Applicant argues that none of Fleury, Horton et al or Trabbic show a tapping and removal valve connecting a main duct to the reservoir. Applicant is mistaken. Each of the above references show two tapping circuits, each having a single tapping and removal valve connected to a respective one of two main ducts, and connected to a reservoir by a removal pipe; and therefore each meets the above limitation.

Fleury shows the elements 43 and 47 as the tapping and removal valves. As stated above, Horton et al shows two tapping circuits, each having a single tapping and removal valve (e.g. 10') connected to a respective one of two main ducts. Trabbic discloses a modification (fig 6) where a tapping and removal valve (328) connects a main pipe to tank, instead of to the other main pipe. It is understood that each of the bypass valves (26, 26') is replaced by a tapping and removal valve (328).

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

Claims 1 and 3-5 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by either Fleury or Horton et al.

***Claim Rejections - 35 USC § 103***

Claims 1, 3-5, 12 and 13 are rejected under 35 U.S.C. § 103 as being unpatentable over Trabbic in view of Meier. Trabbic discloses a hydraulic closed circuit comprising a hydraulic motor (12) having preferred feed and preferred discharge main pipes (20, 22); a tapping circuit comprising a single tapping and removal valve (328) connected to the discharge main pipe by a tapping pipe (326) and to a reservoir (390) by a removal pipe; wherein the tapping and removal valve is contained within a

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cartridge (see e.g. fig 2, 4) mounted to the hydraulic circuit; but does not disclose that the motor includes a casing defining an internal space and a cylinder block disposed therein, or that the removal pipe is connected to the internal space of the hydraulic motor.

Meier teaches, for a hydraulic closed circuit comprising a hydraulic motor (26A) having preferred feed and preferred discharge main pipes communicating with the hydraulic motor; a tapping circuit comprising a single tapping and removal valve (42) connected to the discharge main pipe by a tapping pipe and to a reservoir by a removal pipe (46); that the motor includes a casing defining an internal space and a cylinder block disposed therein, wherein the removal pipe can be connected to the internal space of the hydraulic motor (column 4 line 45-50).

Since the connection of the removal pipe of Trabbic and Meier are functionally equivalent in the hydraulic closed circuit art; it would have been obvious at the time the invention was made to one having ordinary skill in the art to make the motor of Trabbic include a casing defining an internal space and a cylinder block disposed therein, as taught by Meier; and to connect the removal pipe of Trabbic to the internal space of the hydraulic motor, as taught by Meier, as a matter of engineering expediency.

Inherently there is a pipe connecting the internal space of the motor to the reservoir, similar to that connecting the pump casing to the reservoir. If not it would have been obvious at the time the invention was made to one having ordinary skill in the art to connect the internal space of the motor of Trabbic to the reservoir by a pipe, for the purpose of draining fluid from the motor case to the reservoir.

### ***Conclusion***

Claims 16 and 17 are allowed.

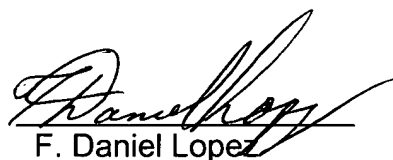
Claims 6-11, 14 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is (703) 308-0008. The examiner can normally be reached on Monday-Thursday from 6:30 AM -4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on (703) 308-1044. The fax number for this group is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861.



F. Daniel Lopez  
Primary Examiner  
Art Unit 3745  
March 15, 2004